

## ACCA

### U.S. v. Stitt/ U.S. v. Sims, --- U.S. --- (2018)

**Decided December 10, 2018**

**FACTS:** In two separate cases, Stitt and Sims were each convicted of unlawful possession of a firearm (18 U.S.C. 922(g)(1)). Because each, however, had prior state burglary convictions, as well, they were also potentially subject to enhanced sentencing under the armed Career Criminal Act (ACCA), 18 U.S.C. 924(e)(1). The ACCA “requires an enhanced sentence for offenders who have at least three previous convictions for certain ‘violent’ or drug-related felonies.” The federal statute provides some description of the state laws that might qualify for the provisions of the ACCA and include, among other crimes, burglary.

Stitt was convicted for aggravated burglary under Tennessee law, which included a burglary of a structure “designed or adapted for the overnight accommodation of persons,” Sims was convicted under Arkansas law for the burglary of a “residential occupiable structure.” For both, the federal District Courts agreed that their crime fell within the scope of burglary for purposes of the ACCA, and imposed the enhanced sentence. In both, however, their respective federal Circuit Courts of Appeal disagreed, vacated their sentences and remanded the cases for resentencing.

The Government, in both, requested certiorari for reconsideration of those decisions, and the U.S. Supreme Court granted review.

**ISSUE:** Is burglary a violent crime under the Armed Career Criminal Act?

**HOLDING:** Yes (most of the time)

**DISCUSSION:** The Court began by noting that the “word ‘burglary,’ like the word ‘crime’ itself, is ambiguous.” The Court agreed the ACCA requires a court to “evaluate a state conviction ‘in terms of how the law defines the offense and not in terms of how an individual offender might have committed it on a particular occasion.’”<sup>1</sup> The Court noted that it had ruled in Taylor v. U.S., it had concluded that Congress intended a “uniform definition of burglary” to be used in ACCA cases.<sup>2</sup> That would include the “classic” common law definition – breaking and entering into a dwelling at night – but that had been extended over time by most states to include other types of structures as well. The Court agreed, however, that it appeared to limit the scope to “serious” burglaries, those that might lead to a “serious risk of physical harm.” In Taylor, as such, the Court had defined the elements for a generic burglary as “an unlawful or unprivileged entry into, or remaining in, a building or other structure, with intent to commit a crime.”

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<sup>1</sup> Begay v. U.S., 553 U.S. 137 (2008).

<sup>2</sup> Taylor v. U.S., 495 U.S. 575 (1990).

The Court agreed that the state law in Tennessee and Arkansas fell within that generic definition. By the time the ACCA was passed, in the mid-1980s, most state burglary laws included vehicles used for lodging, such as a recreational vehicle, so the inclusion of such did not remove convictions under those laws from consideration under the ACCA. Further, burglary is an “inherently dangerous crime” that “creates the possibility of a violent confrontation between the offender and an occupant, caretaker, or some other person who comes to investigate.”

With respect to vehicles used as mobile lodgings, the Court noted, the same risk is present, if not even greater given the smaller size of such lodgings, since both occupants and burglars would find it difficult to escape to avoid confrontation. The Court also found no need to consider the part-time aspects of the use of a recreational vehicle, as it is “no less a burglary” in such circumstances.

The Court also discounted the argument that the Tennessee law included atypical structures and vehicles, such as those being used for housing that are not typical RVs, as not an issue it needed to consider for the purposes of deciding the case.

The Court reversed the decision of the Sixth Circuit (for Stitt) and vacated and remanded the decision of the Eighth Circuit (for Sims.)

FULL TEXT OF DECISION: [https://www.supremecourt.gov/opinions/18pdf/17-765\\_2co3.pdf](https://www.supremecourt.gov/opinions/18pdf/17-765_2co3.pdf)

***NOTE: This case may affect individuals convicted under Kentucky's burglary statutes, in KRS 511.***